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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/088,034	08/26/2002	Timothy Winston Hibberd	A-71400/DJB/VEJ/RBE	6572

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EXAMINER	
KHOMASSI, NIMA	

ART UNIT	PAPER NUMBER
2132	

DATE MAILED: 06/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/088,034	HIBBERD, TIMOTHY WINSTON	
	Examiner	Art Unit	
	Nima Khomassi	2132	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *25 April 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-18* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-18* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

The application having Application No. 10,088,034 has a total of 18 claims pending in the application; there are 3 independent claims and 15 dependent claims, all of which are ready for examination by the Examiner.

When responding to the Office action, Applicant is advised to clearly point out the patentable novelty the claims present in view of the state of the art disclosed by the reference(s) cited or the objection made. A showing of how the amendments avoid such references or objections must also be present. See 37 C.F.R. 1.111(c).

Response to Arguments

Applicant's arguments filed 4/25/06 have been fully considered but they are not persuasive. Applicant argues that the reference, Mi, fails to teach or suggest rate limiting. The applicant, however, *does not* argue how the limitation in claim 1 ("applying a rate limit) is patently distinct from Mi (Fig. 3, step 350 "Return value arrive within the set time period"). Applicant uses a rate limit as a **time variable** to restrict access to a particular server, namely to deny access if too many requests are given over a set period of time. The reference, Mi, uses a **time variable** as well to restrict access to a particular server, namely to deny access if a value is not returned over a set period of time. The applicant is reminded that the Examiner has the right to view claim terms as presumed to have the ordinary and customary meanings attributed to them by those of ordinary skill in the art. *Sunrace Roots Enter. Co. v. SRAM Corp.*, 336 F.3d 1298, 1302, 67 USPQ2d 1438, 1441 (Fed. Cir. 2003); *Brookhill-Wilk 1, LLC v. Intuitive Surgical, Inc.*,

334 F.3d 1294, 1298, 67 USPQ2d 1132, 1136 (Fed. Cir. 2003) ("In the absence of an express intent to impart a novel meaning to the claim terms, the words are presumed to take on the ordinary and customary meanings attributed to them by those of ordinary skill in the art.") The applicant merely restates the claim language in the independent claims as well as portions of the specification. As such, the rejection is maintained.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claim 1-18 rejected under 35 U.S.C. 102(e) as being anticipated by Mi et al., U.S. Patent No. 6,418,472 B1; filed on January 19, 1999 and patented on July 9, 2002.

As per claim 1, 16 & 17, an access control method, including: receiving an initial access request for a service from a data processing apparatus (Fig. 3, step 300); sending unique identification data to said apparatus in response to said initial access request (Fig. 3, step 320); and applying a rate limit for verifying access to said service until said identification data is verified by a user of said apparatus (Fig. 3, step 350).

As per claim 2, an access control method as claimed in claim 1, wherein verifying said identification data corresponds to a first level of access control, and said method includes applying at least one additional level of access control following a

predetermined number of failed attempts to verify said identification data by said user of said apparatus (col. 11, lines 8-35; second factor for access can be requested prior to permitting the user to log-in).

As per claim 3, an access control method is claimed in claim 2, wherein said identification data is a random unique security code and said apparatus is sent an unique identification number which expires if the security code is not verified within a predetermined period of time (Fig. 3, steps 300, 320, 350).

As per claim 4, an access control method as claimed in claim 1, wherein said identification data is verified by contacting a device with a known association to said user and said data processing apparatus, and having said user provide said identification data using said device (Fig. 3, steps 330, 340).

As per claim 5, an access control method as claimed in claim 1, wherein said identification data is verified by said user returning said identification data using communication means having a known association to said user and said data processing apparatus (Fig. 3, steps 330, 340).

As per claim 6, an access control method as claimed in claim 2, wherein said at least one additional level includes detecting generation of access requests for said service under control of a program instead of under control of said user (col. 11, lines 8-35; "enables a server to track usage patterns, the server can be programmed to trigger a particular response...").

As per claim 7, an access control method as claimed in claim 2, wherein said at least one additional level of access control includes sending communication software to

said apparatus to receive access requests for said service under an additional communication protocol (Fig. 6).

As per claim 8, an access control method as claimed in claim 7, wherein said communication software encrypts said access requests (col. 9, lines 43-60).

As per claim 9, an access control method as claimed in claim 2, including invoking sequentially the levels of access control depending on the number of failed attempts to verify said identification data by said user for access requests over predetermined periods of time (col. 11, lines 8-35).

As per claim 10, an access control method as claimed in claim 6, wherein said at least one additional level of access control includes sending communication software to said apparatus to receive access requests for said service under an additional communication protocol and wherein said verifying of said identification data is a first level of access control, said detecting is a second level of access control, and said sending of said communication software and execution of said additional communication protocol is a third level of access control (col. 11, lines 8-35; Fig. 3-6).

As per claim 11, an access control method as claimed in claim 10, wherein said at least on additional level of access control includes a fourth level of access control involving locking all access requests by said data processing apparatus (Fig. 3-6, steps "Client not give access to object" or "Access Denied").

As per claim 12, an access control method as claimed in claim 11, wherein said blocking involves denying all access requests that include address data that

corresponds to said data processing apparatus (Fig. 3-6, steps "Client not give access to object" or "Access Denied").

As per claim 13, an access control method as claimed in claim 12, wherein the address data is an IP address or segment (Fig. 6, step 640; blocking access includes to the data, user, ID, IP, segment, class etc.).

As per claim14, an access control method executed by a computer system, including:

applying an access rate limit until a user issuing access requests is verified (Fig. 3, step 300);

a first control level involving verifying said user (Fig. 3, step 350);

a second control level applying hack program detection tests to said access requests and verifying said user (Fig. 3, step 360/370; also col. 11 lines 12-16);

a third control level requiring use of predetermined download software for transmitting said access requests and verifying said user (Fig. 6, step 620);

a fourth control level blocking access to said service on the basis of at least one communications address corresponding to said access requests (Fig. 6, step 640); and

invoking said control levels sequentially depending on a number of failed attempts to verify said user (col. 11, lines 8-35).

As per claim 15, an access control method as claimed in claim 14, wherein said user is verified by contacting a device with a known association to said user and said data processing apparatus, and having said user provide identification data using said device (col. 11, lines 58-65; public key).

As per claim 18, an access control system, including: an access control server for receiving access requests for a service from a data processing apparatus, rate limiting access to the server until a user of said apparatus is verified, and sending to said data processing apparatus unique identification data (Fig. 6, also see col. 9 & 10 for further description); and an IVR for contacting a device having an association with said data processing apparatus, issuing a request for said identification data, and providing the data received in response to said request to said access server in order to verify said user (Fig. 6, also see col. 9 & 10 for further description).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however; will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications should be directed to Nima Khomassi whose telephone number is (571) 272-3775. The examiner

can normally be reached Monday-Friday from 8:30 AM to 5:00 PM. If the examiner is unavailable, Applicant is advised to leave a voicemail message which will be returned by the next business day.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gilberto Barron Jr., can be reached at (571) 272-3799.

The fax number for Formal or Official faxes to Technology Center 2100 is 571-273-8300. On July 15, 2005, the Central Facsimile (FAX) Number changed from 703-872-9306 to 571-273-8300. As of September 15, 2005, the former is no longer in service; the latter is the only facsimile number recognized for centralized delivery.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have any questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Nima Khomassi
June 19, 2006
Art Unit #2132

GILBERTO BARRON JR
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100